

James J. Durham

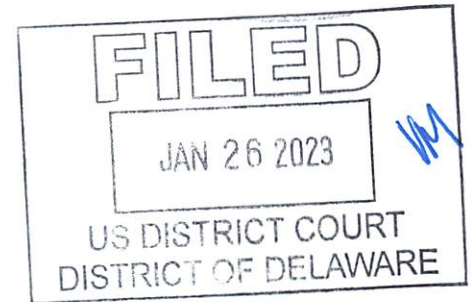
CA NO. 22-01606-G BW

V.

L.T. Orlando DeJesus
Warden Robert MAY

L.T. Robert Heishman
SR Counselor EMANI Dorelus
Mental Health Clinician Markeeta
Wright

STAFF SERGent Boston/Clark



AMENDMENT

date: 1-16-23

JAMES J. DURHAM
SBI# 432835
1181 Paddock Road
Smyrna, De 19977

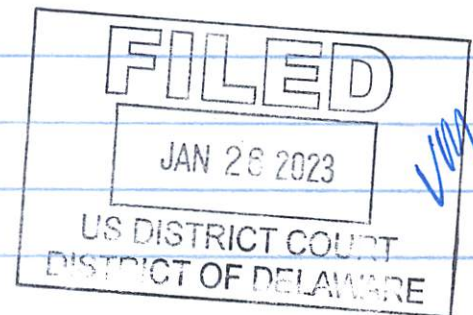
C A N O. 22 - 01606 - GBW

THIS AMENDMENT IS FOR THE CASE # ON THE FACE OF THE 1983 AMENDMENT. FOR THE CONSTITUTIONAL VIOLATIONS SUFFERED, ON THE ORIGINAL CIVIL COMPLAINT THAT IS 13 PAGES LONG, NUMBERED FROM 1 TO 13

PREVIOUS MOTION IS CITED IN THIS AMENDMENT AND WAS REFERRED TO BY THE PAGES CITED HEREIN, AS TO ARGUMENTS, POLICY VIOLATIONS, AND CERTAIN ACTIONS THAT TOOK PLACE

I DO NOT HAVE LAW LICENSE SO, PLEASE UNDERSTAND THAT I SHOULD NOT BE HELD TO AN ATTORNEY SKILL PRACTICE.

Thank You.



LEGAL QUESTION

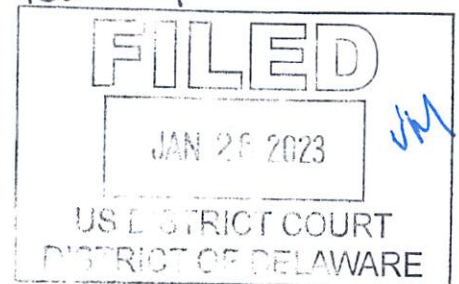
Was my Fourteenth Amendment Due Process Rights Against the Deprivation of a State-Created Liberty Interest, Along with my Rights Under Article I § 7 of the DE. Constitution, Violated when I wasn't Afforded Impartial Decision Making body, and the Failure To present evidence against me, hand writing expert For hand writing analysis allegedly done and the evidence compared to the unknown letter that provides the identical proof that it was me, as the writer. For the Bribery Disciplinary Infraction. Previously stated PAGE 10-11)

LEGAL STANDARD

DUE process prohibits THE DEPRIVATION OF A PRISONER'S LIBERTY INTEREST AT A Disciplinary HEARING UNLESS the PRISONER IS GIVEN: (1) AN impartial Decision-Making Body, (2) To Present evidence against, which is a right... ERSKINE V. DEMATTEIS, 2021 U.S. Dist. Lexis 200970 A 10 (D. DEL.), WOLFF, At 563-572

LEGAL ARGUMENTS - MERITS

THE FACTS PERTAINING TO THIS CLAIM HAVE BEEN PREVIOUSLY STATED. At Page 10-11



prisoners HAVE A Right TO certain procedural protections WHEN they FACE THE LOSS OF A LEGALLY COGNIZABLE LIBERTY INTEREST. WOLFF, AT 566-67; PRICE, AT *11.

SANDIN STATES PRISONERS SHOULD ONLY BE FOUND TO HAVE LIBERTY INTEREST IN THREE CIRCUMSTANCES ... (2) WHEN THE CHALLENGED ACTION CAUSES THE PRISONERS TO SPEND MORE TIME IN PRISON 515 U.S. AT 484.

PER CLAUSE (2) OF THE SANDIN ANALYSIS, I HAVE BEEN FOUND TO HAVE LIBERTY INTEREST BY THE LOSS OF MY EARNED SECURITY LEVEL MEDIVEM SECURITY AND THE NEGATIVE EFFECTS OF THE FALSE DISCIPLINARY CONVICTION AND INDEFINITE ADMINISTRATION SEGREGATION WILL HAVE ON MY SENTENCE AND UPCOMING EARLY RELEASE HEARINGS.

LIBERTY INTEREST THAT WERE CREATED BY 11 DEL.C. § 4217 AND § 4381-4384 AND THE DELAWARE PARDON BOARD RULES.

THE FACT THAT DOC IS EQUATING MY ACTIONS TO MAX SECURITY THROUGH A CONVICTION WITH FALSE IMPLICATIONS THAT DEPRIVED MY MED SECURITY. HIGHLY UNLIKELY THAT EARLY RELEASE WILL BE GRANTED.

TO MENTION THE NEGATIVE STIGMA MAX-SECURITY ALREADY HAS ON THESE BOARDS. WILKINSON, AT 223. (PAROLE INELIGIBILITY WAS ONE FACTOR MAKING PLACEMENT IN SUPERMAX "PRISON A DEPRIVATION OF A LIBERTY INTEREST).

A Liberty interest WAS ALSO CREATED BY D.O.C 4.2. Policy

§ VI. J., K., M., N., AND CLASS I HEARINGS: ALL HEARINGS SHALL
BE CONDUCTED BY AN IMPARTIAL HEARING OFFICER, RULES PROMULGATED
BY D.O.C PURSUANT TO IT'S AUTHORITY GRANTED BY 6535. BROWN, 730
F. Supp. AT 614.

BECAUSE D.O.C L.T. DEJESUS DISCIPLINARY INFRACTION AGAINST ME
WITH FABRICATION, EVIDENCE NEVER PRESENTED TO PURSUE A INFRACTION
IN REGARDS TO THE PROCEDURAL DUE PROCESS, WHICH THE HEARING -
OFFICER USED THAT TO SUBSTANTIATE THE CONVICTION, ALSO

BY ALLOWING THAT BIASNESS TO TAINT THE DISCIPLINARY
PROCEEDINGS, I WAS NOT AFFORDED AN IMPARTIAL - DECISION MAKING
BODY NOR PRESENT EVIDENCE AGAINST ME REGARDING THE HAND WRITING
ANALYSIS AND EXPERT WHICH ONE WOULD BE LICENSED. SEE AT
Class I Hearings inmates Rights, entitled TO D.O.C 4.2 Policy PG #7

This hendered my population medium status, used against my
classification, when i had this infraction prior to classification
review and approved TO population medium status. THEN,
UNLAWFULLY CLASSIFIED 2WKS LATER BACK TO MAX SECURITY WITH
OUT GETTING IN TROUBLE, FOR THIS SAME INFRACTION. WHICH
NEGATE GOOD TIME, JOBS, REHABILITATION, FOR EARLY RELEASE.

As A Result, I WAS subjected To spend more TIME IN PRISON AND MY DUE PROCESS RIGHTS UNDER THE FOURTEENTH AMENDMENT AND ART. I § 7 OF THE DE. CONST. WERE VIOLATED.

LEGAL QUESTION

Did D.O.C. OFFICIALS EXERCISE AN ARBITRARY, CAPRICIOUS, AND RETALIATORY ABUSE OF DISCRETION, ALONG WITH DELIBERATE - INDIFFERENCE, WHEN THEY IGNORED THE DOC POLICY / STATUTORY / CONSTITUTIONAL VIOLATIONS, DENIED OR FAILED TO RESPOND TO MY APPEALS AND ADMINISTRATIVE REVIEWS, AND SUBMITTED A MAX-SECURITY CLASSIFICATION, LOAP SANCTIONS, WITHOUT THOROUGH - INVESTIGATION AND ALL CLAIMS COLLECTIVELY OF THE L.T. DEJESUS TARGETTING, VENDETTA, HARRASSMENT, ABUSE ON MENTALLY ILL INMATES, WITH RETAILIATION. PREVIOUSLY STATED PAGE 12) SEE GRIVENCES EXHIBIT 1

LEGAL STANDARD

Bureau OF PRISONS POLICIES ARE 3.3 GOVERNORED BY 11 DEL.C. § 6527, § 6529 - § 6533, DEPARTMENT OF CORRECTIONS POLICY 4.6, DEPARTMENT OF CORRECTION POLICY 8.60, Bureau OF PRISONS PROCEDURE 8.60, PRISON RAPE ELIMINATION ACT § 115.42

!!!!

Also, Bureau of Prisons Policy are Governed by 11 Del. C. § 4382, § 6517, § 6535; 29 Del. C. § 8903; D.O.C Policy 4.2, D.O.C Policy 8.30 BOP Policy 4.2, inter alia.

LEGAL ARGUMENTS - MERITS

THE FACTS Pertaining To this Claim HAVE BEEN PREVIOUSLY stated ^{see} PAGE 12 ALSO see: Classification At PAGE 4-7, ALSO Disciplinary at 10-12 THE cited D.O.C Policy 4.2 and 3.3 DUE Process violations.

THERE is clear and convincing evidence THAT NUMEROUS violations were committed. I MADE D.O.C aware OF those violations Through Grievances, appeals, and administrative Reviews. ALSO, see AFFIDAVITS, Exhibits A & B, Letters Forward. ATTACHED to the 1983 complaint.

Deputy Warden Parker AND Hollinsworth, Warden MAY, Commissioner Hudson OFFICE, STACY Hollis, they Either neglected, Failed OR Refused To Conduct a THOROUGH Independent investigation into My into my disciplinary violations and classification violations.

As a side note, it is counterintuitive to expect Warden MAY, to conduct a thorough investigation when he would initiated through (Internal Affairs L.T. DeJesus) who the complaint is against by the Plaintiff here, In which Plaintiff addressed the Warden MAY, OF many times. In which the pursued False Disciplinary action motivated with False evidence From L.T DeJesus. THAT the Warden neglected to correct. I EXHAUST My administrative Remedies.

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Because D.O.C OFFICIALS EXERCISED AN ARBITRARY, CAPRICIOUS, and RETALIATORY ABUSE OF DECRETION, ALONG WITH ~~RECKLESS~~ DELIBERATE INDIFFERENCE, WHEN THEY FAILED TO CONDUCT A THOROUGH INVESTIGATION INTO MY DISCIPLINARY PROCEEDINGS, THEY WERE PERSONALLY INVOLVED IN THE VIOLATIONS OF MY FIRST AMENDMENT RIGHTS TO FREE SPEECH AND SEEK GOVERNMENT REDRESS OF GRIEVANCES.

THEY WERE ALSO PERSONALLY INVOLVED IN THE RETALIATION AGAINST ME FOR THE EXERCISE OF THOSE FIRST AMENDMENT RIGHTS; IN THE VIOLATIONS OF MY FOURTEEN AMENDMENT DUE PROCESS RIGHTS TO ADVANCED WRITTEN NOTICE AND MY RIGHTS AGAINST THE DEPRIVATION OF A STATE CREATED LIBERTY INTEREST, ALONG, WITH MY RIGHT UNDER ART. I § 7 AND 16 OF THE DE-CONST. PLUS NUMEROUS STATUTORY AND D.O.C POLICY VIOLATIONS. See DOC 4.2 PG. 5 § VI.E) RETAILIATION

PERSONAL INVOLVEMENT CAN BE SHOWN IF: (1) THE DEFENDENT DIRECTLY PARTICIPATE IN THE ALLEGED CONSTITUTIONAL VIOLATION, (2) THE DEFENDANT, AFTER BEING INFORMED OF THE VIOLATIONS THROUGH A REPORT OR APPEAL, FAILED TO REMEDY THE WRONG, AND (3)

THE DEFENDANT EXHIBITED DELIBERATE INDIFFERENCE TO THE RIGHTS OF INMATES BY FAILING TO ACT ON INFORMATION INDICATING THAT

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UNConstitutional Acts WERE OCCURRING ASHCROFT V. IQBAL,
U.S. 129 S.C.T. 1937, 1949 (2009).

SUCH INVOLVEMENT MAY BE SHOWN THROUGH ALLEGATIONS OF
PERSONAL DIRECTION OR ACTUAL KNOWLEDGE AND ACQUIESCENCE.
EVANCHO V. FISHER, 423 F.3d 347, 353 (3d.cir. 2005)

OFFICIALS WHO REVIEW INDIVIDUAL DISCIPLINARY PROCEEDINGS MAY BE
HELD LIABLE IF THEY DO NOT CORRECT DUE PROCESS VIOLATIONS
OF WHICH THEY HAVE NOTICE LEWIS V. SMITH, 855 F.2d 736, 738,
11th cir. 1988)

WHERE DISCIPLINE IS UNCONSTITUTIONAL FOR SUBSTANTIVE REASONS
(e.g. conduct is constitutionally protected), ALL THOSE WHO REVIEW AND
APPROVE THE DISCIPLINE MAY BE HELD LIABLE. WILLIAM V. BITNER, 359
F. SUPP. 2d 370, 377 (M.D. Pa. 2005).

L.T. HIESMAN Failed to protect my rights and due process at
the disciplinary HEARING as the hearing OFFICER. He considered the
testimony by L.T. DeJesus OF evidence OF handwriting analysis that
was never done or presented at the hearing, which L.T. DeJesus
said was done. ALSO, he never Presented NO statement in the Dis-
ciplinary report, one was done, he ~~can~~ not bring up accusations of
evidence without presenting it. It must be in writing for denying documentation
for evidence i wanted to challenge see (DO 4.2 policy 168 at 6) couldn't properly
confront accuser because i couldn't challenge the handwriting evidence because it was
not at hearing see (DO 4.2 168 at 9)

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MOTIONS

I NOW MOTION THE COURT For :

(A) Appointment OF Counsel - TO Further investigate and Substantiate these Claims.

(B) Discovery

For My complete Institutional File - SBI#00432835

TO Produce:

- A. All video Footage and Pictures OF CAMERA used as evidence in my conviction DR#1130778 to support my accusations
- B. Disciplinary Record, FROM my classification 6-27-22 that was approved and 7-15-22, when I was reclassified to show no new ~~evidence~~ infractions that justify reclassifying me From initial approval.
- C. Classification Records To show my medium status OF my commutation eligibility For Tis /modification.
- D. Mental Health /medical Records To Produce my complaints to them about advanced Mental depression and emotional distress. From Harrassment, Targeting, retaliation OF write ups because exercise my complaints.

CONCLUSION

whereFore, I Humbly ReQuest That For D.O.C OFFICIAL'S violating D.O.C Policy's, statutory LAWS, AND The U.S. and DE. constitution, This Court grants this Complaint

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and the Following Relief.

- 1) Expunge THE disciplinary conviction DR# 1130526 and All write up's pursued by L.T DeJesus, IF Found liable for his behaviors of malicious targetting, Retaliation, Plaintiff alledge herein
- 2) Returned me back to my previous status medivern status housed in Med Security, out OF MAX.

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DECLARATORY -

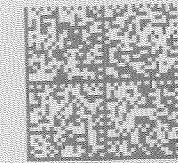
DECLARE THAT MY FIRST AMENDMENT AND
FOURTEEN AMENDMENT RIGHTS, ALONG WITH MY RIGHTS
UNDER ART. I § 7 AND 16 OF THE DE. CONST.
WERE VIOLATED AND I'M ENTITLED TO BE RETURNED
BACK TO MY PREVIOUS STATUS.



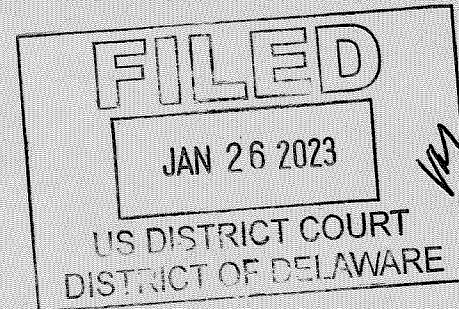
I/M

SBI# 750030 11 B10

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wilm, De 19801-3570

U.S.M.S.
EX-RAY